

UNITED STATES GOVERNMENT
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 12

HEALTH FIRST, INC.¹

Employer

and

Case 12-RC-8433

IATSE LOCAL 780,
INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES,
TECH'S & ALLIED CRAFTS, AFL-CIO,

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,² the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.³
3. Petitioner is a labor organization within the meaning of the Act.

¹ The Employer's name appears as amended at the hearing.

² The briefs submitted by the parties have been carefully considered.

³ The Employer is a Florida corporation with an office and a place of business located in Brevard County, Florida, where it operates the following acute care hospitals: Holmes Regional Medical Center, Palm Bay Community Hospital and Cape Canaveral Hospital. During the past 12 months, the Employer, in conducting its business operations described above, has derived gross revenues in excess of \$250,000, and during the same period of time, has purchased and received at its Brevard County facilities goods and materials valued in excess of \$50,000 directly from points located outside the State of Florida.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Employer's Operation and Positions of the Parties

The Employer operates three acute care hospitals in Brevard County, Florida: Holmes Regional Medical Center (hereinafter Holmes), with 438 licensed beds and 30 continuing care beds, Cape Canaveral Hospital (hereinafter CCH), with 150 licensed beds, and Palm Bay Community Hospital (hereinafter PBCH), with 60 licensed beds. CCH is approximately 20 miles from Holmes, and PBCH is about six to seven miles from Holmes. The Employer also operates other facilities, including outpatient centers, same-day surgery centers and fitness centers.

As amended at the hearing, the bargaining unit sought by the Petitioner is a skilled maintenance unit composed solely of employees in the classifications of facilities tech I, facilities tech II, facilities tech III and facilities tech IV,⁴ employed at Holmes. The petitioned-for positions are within the Employer's plant operations department. There are approximately 20 facilities techs in the petitioned-for unit; the record does not reflect how many of these employees work in each of the four levels of facilities tech.

The Employer claims that any skilled maintenance unit must include facilities techs employed at CCH and at PBCH, as well as at its Medplex facility on Merritt Island.⁵

⁴ The parties agreed to refer to these positions on the record as facilities tech, although they are denominated facilities technicians (I – IV) in the Employer's job descriptions. Similarly, all job titles with the word "technician" are referred to hereinafter using the word "tech."

⁵ It appears from the record that the Employer seeks to include all its facilities techs, as there are none stationed at any other facility.

In addition, the Employer claims that a skilled maintenance unit must also include the following positions at all three of its Brevard County hospitals: in the clinical engineering department, radiology equipment specialist I, II and III (hereinafter RES I, RES II and RES III), senior tech (X-ray), biomedical equipment tech I, II and III (hereinafter BMET I, BMET II and BMET III), senior tech (biomed) and bed repair tech; the equipment tech in the respiratory care department; and the telephone tech, senior telephone tech, work station specialist and senior work station specialist in the information technology department.⁶ There are approximately 72 employees in the unit proposed by the Employer, and there are approximately 61 employees in the unit found appropriate herein.

The Employer has one overall Board of Directors that administers all three hospitals, and one centralized payroll system for all three hospitals. Each hospital has a separate President, all of whom report to the Employer's Executive Vice President and Chief Operating Officer, Larry Garrison. Each hospital maintains a separate budget.

It is not disputed that employees in the same positions in all three hospitals receive similar levels of compensation and benefits, similar leave and that all employees are subject to the same written personnel policies contained in the Associates Handbook and to the provisions of the Human Resources Policies and Procedures manual.

Facilities Techs

Facilities techs perform repair and maintenance on building systems, such as heating and air conditioning, plumbing and electrical systems, as well as assorted general maintenance duties including repairing walls, replacing light bulbs, etc. Their functions are essentially the same at all three of the Employer's hospitals and the outlying facilities. Facilities techs use the same tools, work on the same equipment and

⁶ The Employer initially sought to also include the maintenance tech, but later during the hearing withdrew this position from its proposed unit.

are paid within similar wage ranges at all three hospitals. Facilities techs work 24 hours per day, seven days per work.

Job descriptions for facilities techs do not vary with the hospital or facility to which they are assigned, just with how advanced they are. For example, facilities techs II, III and IV must have taken academic courses in blueprint reading, mechanical drawing and mathematics. Whereas facilities techs I and II need only have a high school education and limited experience working in relevant fields, facilities techs III and IV must have greater relevant work experience and either journeyman or HARV⁷ certificate as required.

Facilities techs are dispatched to carry out work orders generated from the various buildings, including the outlying facilities. The selection of whom to dispatch depends upon the employee's level of skill and the complexity of the work order. In general, work orders generated at the outlying facilities are handled by facilities techs stationed at the closest hospital.

There are approximately 20 facilities techs at Holmes, who are supervised directly by either facilities manager Bob Boyd or by utility supervisor Frank Grella. There are roughly 16 facilities techs at CCH, supervised by facilities manager Glenn Kanalas. There are two facilities techs at PBCH, supervised by facilities manager Chuck Tyler.⁸ Although the Vice President of Human Resources testified that there is one facilities tech permanently stationed at the Merritt Island Medplex, he also testified that there are a total of 38 facilities techs, 20 stationed at Holmes, 16 at CCH and two at PBCH, and the director of plant operations did not mention a facilities tech stationed at the Medplex

⁷ The term "HARV certificate" is contained in the job descriptions for these positions, but the record does not reflect what the term means.

⁸ The parties stipulated, and I find based upon the parties' stipulation and the record as a whole, that Boyd, Grella, Kanalas and Tyler are supervisors within the meaning of Section 2(11) of the Act.

facility when explaining where all facilities techs are based; it therefore appears from the record that there is no facilities tech stationed anywhere except the three hospitals.

Larry Rodriguez, the director of plant operations, has authority over all facilities techs. Rodriguez reports directly to the Vice President for Facilities, Tom Mills, who works at CCH and who in turn reports to its President; ultimate authority over facilities techs therefore resides in the President of CCH rather than in the Presidents of the respective hospitals where the facilities techs work.⁹

Rodriguez works three days per week at his office at Holmes and the other two days per week at his office at CCH.¹⁰ On the days that Rodriguez is at CCH, facilities supervisor Boyd performs his duties as needed at Holmes; on the days Rodriguez is at Holmes, facilities supervisor Kanalas performs his duties as needed at CCH. Rodriguez does not have an office at PBCH, but travels there as needed.

The Employer enforces a progressive disciplinary policy, beginning with an “oral agreement,” followed by a “written agreement,” a “decision day” and then discharge. Facilities managers have authority to issue discipline to facilities techs, although the record does not reflect specific instances when they have done so, their frequency, or whether they have been modified or altered by director of plant operations Rodriguez.¹¹

⁹ Thus, under the Employer’s organizational structure, the facilities techs stationed at Holmes are not under the control of the President of Holmes.

¹⁰ Plant operations and clinical engineering are both what the Employer terms “matrix” departments, which is the term the Employer uses for departments that cover all of the Employer’s hospitals and outlying facilities.

¹¹ Rodriguez could not recall how many written disciplines have been issued to facilities techs within the past year.

Rodriguez does not get involved in the discipline process until an employee is issued a “decision day,” essentially a one-day suspension with pay from which the employee must return with either a “letter” explaining that employee’s commitment to meet expectations for performance, or a resignation. Other than meeting with the human resources staff to discuss such “decision days,” the record does not reflect the nature of Rodriguez’s involvement or that of human resources officials in the disciplinary process, and Rodriguez could not recall any instances of his involvement in discipline.

Facilities managers initially complete performance evaluations on facilities techs, then forward these evaluations to Rodriguez for review. Rodriguez then meets with each facilities tech individually at all three hospitals to discuss the evaluations. Evaluations determine part of the annual wage adjustment for each facilities tech, based upon a numerical performance standard established by the Employer’s department of human resources. The record does not reflect whether director of plant operations Rodriguez has modified evaluations from those completed by facilities managers. Rodriguez also has authority to award raises to facilities techs in addition to raises awarded as a result of their annual evaluations, but there is no evidence in the record of any instances when he has done so.

Facilities managers interview applicants for vacant facilities tech positions at their respective hospitals,¹² and make recommendations to director of plant operations Rodriguez, who then interviews the applicants again and makes the final decisions on hiring. The record reflects that Rodriguez accepted the facilities managers’ recommendations for filling the two vacancies Rodriguez recalls filling in 1999.

There has been some degree of interchange and interaction among facilities techs at the three hospitals and the outlying facilities, both because of absences and to

¹² Applicants are initially screened by human resources staff before being interviewed by facilities managers.

meet the skill needs of particular projects. However, the record reflects inconclusive and occasionally conflicting testimony from the Employer's witnesses as to the frequency of such interchange and interaction. Thus, director of plant operations Rodriguez testified at one point that, during the past year, facilities techs from one hospital were dispatched to work at another hospital an average of once per month. Rodriguez also testified that the frequency with which he has assigned facilities techs to locations other than their own hospital has been "closer to fifty" times than to two or three times over the past four months. He further testified that, during the past three months, he had assigned a facilities tech from CCH to work at Holmes once, and did not identify other instances. Facilities manager Boyd testified that facilities techs from one hospital are reassigned to a different site "quite often," but when asked to estimate the frequency of such reassignments during the last six months, Boyd replied that he could not do so.

The record reflects certain instances of interchange among facilities techs. In June, 1999, director of plant operations Rodriguez assigned a facilities tech working second shift at CCH to also work several hours each morning for three weeks at Holmes to test and balance air flows in the pharmacy in connection with an earlier construction project there. This employee continued to work his normal shift at CCH during these three weeks and received overtime pay for all hours over 40 per week, counting both his hours working at Holmes and those working at CCH. Also in June, 1999, facilities manager Boyd assigned a facilities tech III from Holmes to work with a facilities tech III from CCH to install control circuitry for a new booster pump at the Employer's Healthplex on Merritt Island. In November, 1999, another facilities tech who normally works at Holmes, Santana, was reassigned by facilities manager Boyd on two consecutive days to CCH to fill in for a facilities tech who was attending a seminar on hazardous materials. Boyd testified that he often assigns Santana to other locations because of his expertise in testing and balancing.

During a recent hurricane, two facilities techs from Holmes were reassigned to CCH to alleviate a staff shortage caused by travel problems.

The record reflects isolated examples of permanent transfers among facilities techs from one hospital to another. Rodriguez testified that, within the last year, a facilities tech from Holmes transferred permanently to CCH and one from CCH transferred permanently to Holmes. He also testified that another facilities tech transferred from CCH to Holmes, within the past three years. The Employer's Vice-President for Human Resources, Suttles, recalls two or three instances of transfers by facilities techs from one hospital to another within the past one to two years, but the record does not reflect whether these are the same as those recalled by Rodriguez.

Two facilities techs at Holmes testified that they have never been reassigned to CCH or PBCH, have never seen a facilities tech from CCH or PBCH working at Holmes and have never worked side-by-side with facilities techs from CCH or PBCH. One of these two facilities techs has worked for the Employer for three years, and the other for about one year.

Facilities techs attend separate weekly or biweekly staff meetings at their respective hospitals, conducted by the director of plant operations.¹³ The director of plant operations also meets regularly with the facilities managers at all three hospitals to address personnel and production issues.¹⁴ Supervisors in plant operations communicate daily by E-mail, telephone and the Employer's radio, on issues arising in their respective facilities. There is a policy review committee for the plant operations department, composed of the director of plant operations, the three facilities managers, an assistant specialist, two facilities techs IV (one each from CCH and Holmes) and a

¹³ Facilities techs at Holmes meet every other Thursday; those at CCH meet every Friday. It is not apparent from the record whether the two facilities techs at PBCH attend separate periodic staff meetings. The record also does not reflect the content of these meetings.

¹⁴ The record does not reflect whether these management meetings occur separately at each facility.

secretary; this committee develops, reviews and modifies Policies and Procedures concerning personnel, equipment and related issues. The director of plant operations maintains an “open door” policy with respect to employee grievances, and facilities techs regularly seek his assistance when having problems with their direct supervisors.¹⁵

All plant operations employees attend a picnic once each year. The director of plant operations has taken facilities techs from each hospital out for lunch on their birthdays.¹⁶

Facilities techs at Holmes and PBCH wear uniforms provided by the Employer consisting of gray pants and a white shirt with blue stripes. Only two or three of the facilities techs at CCH wear uniforms, and the record does not reflect their features. Facilities techs also wear identification badges provided by the Employer,¹⁷ although it appears from the record that such badges are not normally required for entry by plant operations employees.¹⁸

Clinical Engineering Positions The Employer Seeks To Include

There are 15 employees in the positions of RES I, II and III and BMET I, II and III.¹⁹ Twelve or thirteen of these work at Holmes and two or three work at CCH.²⁰ There are none stationed at PBCH; it appears from the record that BMET from Holmes are

¹⁵ The record does not reflect whether the director of plant operations has reversed personnel decisions made by the facilities managers.

¹⁶ The record reflects that Rodriguez has taken nine facilities techs from Holmes and two from CCH to lunch for their birthdays.

¹⁷ It appears from the record that the badges contain the name of the hospital where the employee works as well as the Employer's name.

¹⁸ The Petitioner argues in its brief that facilities techs at Holmes have separate locker rooms from the employees the Employer seeks to include. The record does not reflect whether this is the case, or whether facilities techs at CCH and PBCH have their own locker rooms.

¹⁹ It appears from the record that six of these employees work as RES and the rest as BMET, and that all six RES are stationed at Holmes. The record does not reflect the breakdown within the RES and BMET classifications between I, II and III.

²⁰ Director of clinical engineering Lawrence testified that twelve of these positions are stationed at Holmes and three at CCH, one of which is currently vacant; whereas the Employer's Vice President for Human Relations, Bob Suttles, testified that thirteen employees in these positions work at Holmes and two at CCH.

assigned to service biomedical equipment at PBCH as needed. It further appears that RES from Holmes are assigned to service radiology and imaging equipment at both CCH and PBCH as needed.

Director of clinical engineering Walter Lawrence, maintains an office at Holmes and on occasion shares one at CCH with managers from other departments. He reports directly to the Vice President of Facilities, Mills. Lawrence directly supervises the above clinical engineering positions. Unlike the facilities techs, the clinical engineering positions the Employer seeks to include do not have an immediate supervisor apart from the director of their department – in this case, the director of clinical engineering.

The BMET employees repair and maintain equipment used in the treatment, diagnosis and monitoring of patients, such as EKG monitors, infusion pumps and patient warming and patient cooling devices. The BMET II and III work on equipment used in more sophisticated patient care, while the BMET I works on basic equipment. In addition to the requirements for the BMET I, the BMET II must have at least two years of experience servicing biomedical equipment; the BMET III must have at least five years of such experience, and must have formal ICC certification as a biomedical equipment technician.²¹

The RES positions are similar to the BMET positions, except that they specialize in servicing radiology or imaging equipment. As with the BMET positions, the RES II must have two years of experience servicing radiology and imaging equipment, and the RES III must have five years, as well as being ICC certified as a radiology equipment specialist.

The bed repair tech repairs and maintains patient beds and related equipment. The bed repair tech works only eight hours per day, and the functions of the bed repair

²¹ The record does not reflect what “ICC” means.

tech are performed by facilities techs when the bed repair tech is off duty. There are two bed repair techs, one stationed at Holmes, the other at CCH.²²

The number of senior techs (X-ray) and senior techs (biomed) is not apparent from the record. Senior techs must have graduated from a two-year engineering technology program at an accredited school or university, as well as fulfilling the requirements of the RES III and BMET III, respectively.²³

Director of clinical engineering Lawrence personally handles all discipline for employees in his department.²⁴ He delegates initial interviewing of applicants to employees in either RES or BMET positions, depending on the position being filled. Once these employees verify the technical skills of the applicant, Lawrence makes his own hiring decisions.

Performance evaluations are prepared by Lawrence, after the senior tech (X-ray) or the senior tech (biomed) complete the appropriate checklist to verify that the employee being evaluated has demonstrated certain technical skills and competence on equipment, as required periodically for such employees under standards established by the Joint Commission on Accreditation of Health Care Organizations.

At Holmes, clinical engineering employees work in two adjacent shops on the same hallway as, but separated by less than one hundred yards from, the two adjacent shops where plant operations employees work; in between these two sets of shops are the offices of the director of clinical engineering and the director of plant operations.

²² Director of clinical engineering Lawrence testified that the employee assigned to CCH and performing the duties of bed repair tech is a facilities tech in the plant operations department, while at Holmes the same functions are performed by a bed repair tech in clinical engineering, whom Lawrence supervises. It appears from the record that director of plant operations Rodriguez supervises the employee performing the duties of bed repair tech at CCH.

²³ During the hearing, the Employer offered to stipulate that neither the senior tech (X-ray) nor the senior tech (biomed) is a supervisor within the meaning of Section 2(11) of the Act; the Petitioner refused to enter into such a stipulation, but presented no evidence that either position was supervisory, and did not argue in its brief that either position was supervisory. Accordingly, I find, based upon the record as a whole, that neither the senior tech (X-ray) nor senior tech (biomed) is a supervisor within the meaning of the Act.

²⁴ The record does not reflect any examples of such discipline.

Clinical engineering employees use different time clocks than plant operations employees in practice, although employees of both departments are free to use any time clock. There is one cafeteria for all employees. As with plant operations, there is a manual containing Policies and Procedures applicable to all clinical engineering employees.

Lawrence convenes staff meetings every other week for clinical engineering employees. These meetings are held at Holmes, and clinical engineering employees stationed at CCH participate via teleconference.

As mentioned above, RES and BMET employees from Holmes perform duties as needed at CCH and PBCH. One BMET recently transferred from CCH to Holmes.²⁵

The Vice President for Human Relations testified that facilities techs do not perform the work of clinical engineering employees when these employees are absent. A facilities manager testified that a facilities tech at Holmes transferred to a position in clinical engineering there, performing similar duties, and that when this employee is absent, he is replaced by a facilities tech III.

Facilities techs at Holmes occasionally assist clinical engineering employees there in some of the positions the Employer seeks to add to the petitioned-for unit. The record does not clearly reflect the frequency of such assistance, or whether facilities techs at CCH also assist clinical engineering employees there. When temporarily assigning a facilities tech to assist a clinical engineering employee, the director of clinical engineering must receive permission from higher up within the Employer's hierarchy.

²⁵ The record does not reflect whether this was a BMET I, II or III.

Facilities techs work side-by-side with clinical engineering employees in RES and BMET positions when the demands of the project so require. For example, when installing medical gas equipment, a facilities tech assures that the gases are supplied in the correct flows and pressures to the wall outlet, while a BMET maintains the equipment that leads from the outlets to the patients. Similar side-by-side interaction occurs when clinical monitoring equipment is provided to a patient: a facilities tech provides the power supply while a clinical engineering employee handles the monitoring equipment.

According to the director of plant operations, this type of side-by-side interaction occurs episodically, perhaps three days one week and then not at all the next. According to the director of clinical engineering, in 1999 BMET employees worked side-by-side with facilities techs less than five per cent of the time.

There is a degree of functional integration between the facilities techs and the clinical engineering positions the Employer seeks to add to the petitioned-for unit. Within the past two years, the repair of sterilizers, surgical tables and surgical lights at Holmes was transferred from a facilities tech IV function to a BMET function; when the BMET who normally makes these repairs is absent, a facilities tech does them. These same repairs are still performed by facilities techs at CCH; if the facilities tech normally assigned to such repairs is absent, a clinical engineering employee at CCH does the repairs. At Holmes, the reverse osmosis system is maintained by a facilities tech although this is normally a clinical engineering function.

Facilities techs share some equipment, tools and skills with employees in the clinical engineering positions the Employer seeks to add to the petitioned-for unit. For example, both sets of employees work with regulators when working on medical gas equipment. Facilities techs maintain stretchers, while bed repair techs maintain patient

beds, which have similar equipment. In these and other situations, employees in some of the clinical engineering positions at issue herein seek advice from facilities techs.

Clinical engineering employees maintain linear accelerators, and seek advice with their water cooling components, maintained by facilities techs. Employees in BMET positions maintain clinical laboratories, and seek advice from facilities techs concerning small air conditioning units in these labs, used to cool patients.

Two facilities techs at Holmes testified that they have never performed the duties of any of the clinical engineering positions the Employer seeks to include, and have never worked on equipment maintained by clinical engineering employees. These employees testified that they have never worked side-by-side with a clinical engineering employee, and have never seen other facilities techs doing so.

Positions Outside Plant Operations or Clinical Engineering

The Employer also seeks to include positions outside both the plant operations and clinical engineering departments.

The telephone tech, senior telephone technician, work station specialist and senior work station specialist work in the information technology department, which is a matrix department as well. The telephone tech and senior telephone tech install, repair and maintain the Employer's private internal telephones and set up networking through the telephone switch system. The telephone tech's job description requires a two-year associate's degree in general electronics, telecommunications or associated fields, or equivalent training and on-the-job experience, as well as training in nurse call systems and good working knowledge of CBX and telephone key systems. There are three telephone techs, two of whom work about 75 per cent of the time at Holmes, and the third works about 90 per cent of the time at CCH. The only senior telephone tech works about 75 per cent of the time at Holmes; this position requires more expertise but mainly

the same prerequisites as the telephone tech, and functions as a lead, occasionally assigning work to the telephone tech.

The nine work station specialists and only senior work station specialist install, maintain and repair personal computers and computer monitors throughout the Employer's facilities, ensuring their compatibility with the Employer's network.²⁶ The job description for work station specialist requires an associate degree in computer science, computer information systems or a related field, or two years experience in a computer related field. The senior work station specialist, who is stationed at Holmes but has responsibilities at the other hospitals, has more expertise and functions as a lead.

Telephone techs and senior telephone techs are directly supervised by the telecommunication supervisor in information technology. Work station specialists and senior work station specialists are directly supervised by the manager of network services at the Employer's Rockledge business office.

As with clinical engineering employees, there is some functional integration between facilities techs and telephone techs. For example, nurse call systems are repaired by facilities techs at CCH and by telephone techs at Holmes. Also, facilities techs occasionally work next to the telephone tech and senior telephone tech, providing the sources of power for installations and repairs. The record does not reflect the frequency of such interaction. The record does not reflect the extent to which telephone techs and work station specialists interchange with the clinical engineering positions the Employer seeks to add to the petitioned-for unit.

The record does not reflect any functional integration between work station specialists and other positions, or whether work station specialists work next to facilities techs or clinical engineering employees.

²⁶ It appears from the record that roughly equal numbers of work station specialists are stationed at Holmes and CCH, and none are stationed at PBCH.

The equipment tech cleans, sterilizes, disinfects and maintains respiratory equipment and supplies used by respiratory therapists, such as respirators, and maintains an inventory of such equipment. The equipment tech works in the respiratory care department, and is directly supervised by either a supervisor in that department or the director of respiratory care.²⁷ The record does not reflect any interaction between the equipment tech and either facilities techs or the positions the Employer seeks to add to the petitioned-for unit, or any transfers or other interchange between the equipment tech and these positions.

Discussion

The Employer seeks to expand the petitioned-for unit in two respects. The Employer seeks to expand the composition of the petitioned-for unit by including several positions at Holmes in addition to the facilities techs stationed there. The Employer also seeks to expand the geographic scope of the unit to include these same additional positions at all three of the Employer's hospitals and at the outlying facilities, and to include facilities techs from these locations. I will discuss in turn the composition and scope of the unit.

Composition Of The Skilled Maintenance Unit

The Board has used its rulemaking authority to establish eight presumptively appropriate bargaining units in acute care hospitals. 29 CFR Part 103.30, 284 NLRB 1597 (1989) (herein called "Rulemaking"). Except in "extraordinary circumstances," these eight units are considered appropriate.

The parties agree, and I find, that the positions in the petitioned-for unit properly belong in a skilled maintenance unit. In the Second Notice of Proposed Rulemaking, the Board described skilled maintenance employees as those employees who are generally

²⁷ The Vice President of Human Resources was unable to identify which of these individuals supervises the equipment tech.

engaged in the operation, maintenance and repair of the hospital's physical plant systems such as heating, air conditioning, ventilation, refrigeration, electrical, plumbing and mechanical systems. 53 Fed.Reg. 33900, 33920-33924 (1988), 284 NLRB 1527, 1557 (1989).

The facilities techs at Holmes belong in the skilled maintenance unit because they deal with highly complex and sophisticated systems and equipment, and are engaged generally in the operation, maintenance and repair of the hospital's physical plant systems. See Rulemaking, 53 Fed.Reg. 33920, 284 NLRB at 1557.

The Employer claims that BMET, RES, senior tech (X-ray and biomed) and bed repair tech, all positions in the clinical engineering department, must also be included in the skilled maintenance unit. The Petitioner argues that they lack a community of interest with the facilities techs.

The Board considers that biomedical technicians perform work similar to that performed by traditional craft or trade-type maintenance employees. 53 Fed.Reg. 33922, 284 NLRB at 1559. Because of their skills and training, they share a community of interest with other skilled maintenance positions, and thus belong in the skilled maintenance unit. *Id.* In its Rulemaking, the Board "contemplated varying degrees of skill among classifications to be included in skilled maintenance units." Rulemaking, 53 Fed.Reg. 33923-33924, 284 NLRB at 1561-1562; San Juan Regional Medical Center, 307 NLRB 117 (1992).

These considerations support placement of the BMET I, II and III and the senior tech (biomed) at Holmes in the skilled maintenance unit. Similar considerations support placement of RES I, II and III and senior tech (X-ray) at Holmes in the skilled maintenance unit. See San Juan Regional Medical Center, 307 NLRB at 117 fn.1.

Although the BMET, RES, senior tech (X-ray and biomed) and bed repair tech at Holmes are supervised by the director of clinical engineering, while the facilities techs

and the employee performing the duties of bed repair tech at CCH are supervised by facilities managers and the director of plant operations, this does not alone merit placing the disputed clinical engineering positions in a different unit than the skilled maintenance unit. Toledo Hospital, 312 NLRB 652, 652-653 (1993). Nor does the fact that certain of the clinical engineering positions require different educational backgrounds, work experience and certifications than the facilities techs, or that the Employer places the clinical engineering positions in separate administrative units. Toledo Hospital, 312 NLRB at 653.

Similarly, in determining their appropriate unit placement, it is not relevant that these clinical engineering employees repair and maintain patient-related equipment, rather than plant equipment repaired and maintained by facilities techs. Toledo Hospital, 312 NLRB at 652-653; accord Jewish Hospital, 305 NLRB 955.

Finally, the facilities techs and clinical engineering employees work in shops located on the same hallway, within about 100 yards from one another, are permitted to use the same time clocks and share one cafeteria.

Based upon the foregoing, and the record as a whole, I find that the following positions at Holmes should be included with facilities techs in the petitioned-for skilled maintenance unit: BMET I, II and III, RES I, II and III, senior tech (X-ray), senior tech (biomed) and bed repair tech.²⁸ Toledo Hospital, 312 NLRB 652 (1993); San Juan Regional Medical Center, 307 NLRB 117 (1992).

²⁸ As explained above, it appears that a facilities tech performs the duties of bed repair tech at Holmes.

For similar reasons, I find that the telephone tech and senior telephone tech at Holmes also belong in the skilled maintenance unit. Their duties and skills resemble those of the telecommunications technician and lead telecommunications technician found to belong in the skilled maintenance unit in Toledo Hospital, 312 NLRB at 653-654. As in Toledo Hospital, the telephone tech and senior telephone tech work next to facilities techs when needed to provide power supplies for telephone repairs, and they perform functions somewhat integrated with those of facilities techs; for example, they repair nurse call systems at Holmes, whereas the same repairs are performed by facilities techs at CCH. The Board in Toledo Hospital, 312 NLRB at 654, considered these significant factors favoring their inclusion in the skilled maintenance unit. The fact that telephone techs and the senior telephone tech are in the information technology department rather than plant operations or clinical engineering is not a significant factor in determining their unit placement. Id. As with facilities techs, their work involves the repair and maintenance of an aspect of the Employer's physical plant, and the nature of their skills requires their placement in the skilled maintenance unit. Id.; see also Jewish Hospital, 305 NLRB 955, 957.

The work station specialist and senior work station specialist work strictly on personal computers. This work is unrelated to the Employer's physical plant or to other complex hospital equipment, and as such lacks a community of interest with the work performed by employees in the skilled maintenance unit. Toledo Hospital, 312 NLRB at 655. The record does not reflect whether there is any shop area or work space where these employees perform their duties.²⁹ Moreover, their supervisor, the manager of network services, works at the Rockledge business office. There is no evidence that

²⁹ The Vice President of Human Resources testified that there is such an area but that he did not know where it is located; the record contains no other evidence on this point.

work station specialists work side-by-side with facilities techs or with clinical engineering employees, or that there is any interchange between work station specialists and the positions in the skilled maintenance unit, and their work does not appear to be functionally integrated with the work of employees in the skilled maintenance unit. The skills required in the job descriptions of the work station specialist and senior work station specialist are not those of a traditional craft or trade-type skilled maintenance employees, Jewish Hospital, 305 NLRB 955, 958, and are not related to those required for the Employer's skilled maintenance positions.

Based upon the foregoing, and the record as a whole, I find that the work station specialist and senior work station specialist are not skilled maintenance employees or trainees, helpers or assistants to skilled maintenance employees. Since the Board, in its Rulemaking, has determined that a separate unit of skilled maintenance employees is appropriate, I shall exclude the work station specialist and senior work station specialist from the skilled maintenance unit herein.

The equipment tech resembles the respiratory equipment technician excluded from the skilled maintenance unit in Ingalls Memorial Hospital, 309 NLRB 393, 399-400 (1992). As with that position, the equipment tech is responsible for inventory, maintenance and operation of equipment used in respiratory care. As in Ingalls, the equipment tech needs only a high school education and requires no formal education in mechanical or electrical systems and no technical experience. The equipment tech does not appear to perform skilled maintenance on the hospitals' physical plant systems, or fill the position of a trainee, helper or assistant to skilled maintenance employees. Id. The equipment tech's work does not appear to be functionally integrated with that of the other skilled maintenance positions herein, and there is no evidence in the record of any transfers or interchange between the equipment tech and the skilled maintenance positions herein.

Based upon the foregoing, and the record as a whole, I find that the equipment tech is not a skilled maintenance employee or trainee, or a helper or assistant to a skilled maintenance employee, and I shall exclude the equipment tech from the skilled maintenance unit herein.

Single Location Presumption Rebutted

The Board has consistently applied a rebuttable presumption that petitioned-for single-facility units are appropriate when there is no history of multi-facility bargaining and the degree of functional integration with other facilities is not sufficient to destroy the separate identity of the facility the union seeks to represent. See e.g. Samaritan Health Services, Inc., 238 NLRB 629 (1978). The Board applies this rebuttable presumption in the health care industry. Manor Healthcare Corp., 285 NLRB 224 (1987).

In determining whether a multi-facility hospital unit is appropriate, the Board relies upon evidence such as close proximity among the facilities, centralized administration and management, uniform personnel and labor relations policies, wages and benefits, contact and interchange among employees in different facilities. Presbyterian/St. Luke's Medical Center, 289 NLRB 249, 250 (1988). See also Child's Hospital, 307 NLRB 90 (1992).

Holmes is roughly 20 miles from CCH and only six to seven miles from PBCH. Plant operations and clinical engineering are matrix departments under the Employer's organizational scheme, administered uniformly at all locations according to a single set of policies and procedures. Employees at all three hospitals and the outlying facilities are subject to the same personnel policies, as set forth in the Associates Handbook. These factors support combining all of the Employer's facilities into one unit.

Recently, the Board enumerated various factors that rebut the presumption in favor of single units in health care facilities: regular interchange of employees, common

supervision and more complete and substantial integration of facilities. Visiting Nurses Association of Central Illinois, 324 NLRB 55, 56 (1997).

Functional integration and interaction between facilities techs and clinical engineering employees at all of the Employer's facilities supports a multi-facility unit. As described above, the Employer transferred the repair of sterilizers, surgical tables and surgical lights at Holmes from a facilities tech IV to a BMET; when this BMET is absent, a facilities tech performs these functions. At CCH, these repairs are still performed by a facilities tech, and when this employee is absent, they are performed by a BMET. Facilities techs work side-by-side with employees in BMET and RES positions when the project requires it at all three hospitals, such as when installing medical gases and clinical monitoring equipment. Facilities techs use some of the same tools and equipment as clinical engineering employees at all three hospitals, and occasionally their advice is sought for specific projects by clinical engineering employees. The bed repair tech at Holmes is in plant operations, but the one at CCH is in clinical engineering, although they use similar tools and equipment. Facilities techs at all three hospitals repair beds during the 16 hours each day that no bed repair tech is working.

There is also common supervision at all three hospitals within each of the positions found herein to belong in the skilled maintenance unit. The twelve or thirteen clinical engineering employees working in BMET and RES positions and stationed at Holmes, and the bed repair tech stationed there, are supervised by the director of clinical engineering, as are the two or three such employees working at CCH. Similarly, the 20 facilities techs stationed at Holmes are supervised by the director of plant operations, as are the 16 facilities techs at CCH and the two working at PBCH.³⁰

³⁰ As explained above, the bed repair tech stationed at CCH is in plant operations; it therefore appears that this position is supervised by the director of plant operations, just as the facilities techs at all locations.

There is some interchange among employees in different facilities in the positions found appropriate herein. Most obviously, there are only two or three employees in the BMET and RES positions at CCH and none at PBCH; therefore, RES and BMET stationed at Holmes regularly work at CCH and PBCH. A facilities tech assigned to the second shift at CCH was assigned during the morning hours for three weeks in June, 1999 to a project at Holmes, and received overtime pay for any hours that exceeded forty hours during those weeks; this also demonstrates that the Employer treats all three hospitals as one administrative entity. A facilities tech III from Holmes was temporarily assigned to install circuitry at the Merritt Island Healthplex in June, 1999. In November, 1999, a facilities tech stationed at Holmes was assigned to CCH to substitute for an absent facilities tech, and has been reassigned to other locations besides Holmes on numerous other occasions. During a recent hurricane, two facilities techs from Holmes were reassigned to CCH. Within the past year, one facilities tech transferred permanently from Holmes to CCH and another transferred permanently from CCH to Holmes. See Lutheran Welfare Services, 319 NLRB 886 (1995) (finding single-facility unit presumption rebutted where there had been five permanent transfers of nurses over four years between the employer's two facilities).

Similarly, the telephone tech and senior telephone tech spend significant portions of their time at both Holmes and CCH.³¹

Based upon the foregoing, and the record as a whole, I find that the only appropriate unit of skilled maintenance positions comprises the skilled maintenance positions found appropriate herein, at all three of the Employer's Brevard County hospitals.³²

³¹ As explained above, two of three telephone techs and the senior telephone tech work approximately 75% of their time at Holmes, and the remaining telephone tech works about 90 per cent of the time at CCH.

³² It does not appear from the record that the employees in these positions are employed out of the Employer's outlying locations.

In view of the foregoing, and the record as a whole, I find the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:³³

All full-time and regular part-time skilled maintenance employees, including Bed Repair Technician, Biomedical Technician I, Biomedical Technician II, Biomedical Technician III, Facilities Technician I, Facilities Technician II, Facilities Technician III, Facilities Technician IV, Radiology Equipment Specialist I, Radiology Equipment Specialist II, Radiology Equipment Specialist III, Senior Technician (Biomedical), Senior Technician (X-ray), Telephone Technician and Senior Telephone Technician, employed by the Employer at or out of Holmes Regional Medical Center, Cape Canaveral Hospital and Palm Bay Community Hospital located in Brevard County, Florida; excluding the equipment technician, work station specialist, senior work station specialist, all other employees, guards and supervisors³⁴ as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months

³³ The appropriate unit is larger than the petitioned for unit. At the hearing, the Petitioner indicated its willingness to proceed to an election in a unit larger than the petitioned-for unit. Therefore, the Petitioner is directed to submit to the Regional Director within 14 days from the date of this Decision any additional showing of interest required to support its petition, after which, absent such additional showing of interest or the withdrawal of this petition, the petition shall be dismissed.

³⁴ As mentioned above, the record establishes, and I find, that facilities managers Bob Boyd, Glen Kanalas and Chuck Tyler and utility supervisor Frank Grella are supervisors within the meaning of Section 2(11) of the Act; in addition, the record establishes, and I find, that director of plant operations Larry Rodriguez and director of clinical engineering Walter Lawrence are supervisors within the meaning of Section 2(11) of the Act.

before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced ³⁵

Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by IATSE Local 780, International Alliance of Theatrical Stage Employees, Tech's & Allied Crafts, AFL-CIO.

Dated at Tampa, Florida, this 23rd day of December, 1999.³⁶

Rochelle Kentov, Regional Director
National Labor Relations Board, Region 12
201 E. Kennedy Boulevard, Suite 530
Tampa, FL 33602

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³⁵ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966), N.L.R.B. v. Wyman-Gordon Company, 394 U.S. 759 (1969). Accordingly it is hereby directed that two (2) copies of separate election eligibility lists for each unit, containing the full names and addresses of all eligible voters, must be filed by the Employer with the Regional Director for Region 12 within 7 days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The list may initially be used by the Regional Director to assist in determining an adequate showing of interest. The Regional Director shall make the list available to the parties to the election when it has been determined that an adequate showing of interest has been established. In order to be timely filed, such list must be received by the Regional Office, SouthTrust Plaza, Suite 530, 201 E. Kennedy Boulevard, Tampa, Florida 33602-5824 on or before December 30, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

³⁶ Under the provisions of Section 102.67 of the Board's Rules and Regulations, Series 8, as amended, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N. W., Washington, DC 20570-0001. This request must be received by the Board in Washington, DC by January 6, 2000.